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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.

In the Matter of  
Informal Complaint of  
Sandlin Broadcasting Co. Inc.  
v.  
Garwood Broadcasting Company and  
Roy E. Henderson, Its Principal

) Cf. FM Rulemaking

) MM. Docket No. 99-331

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To: Chief, Enforcement Bureau  
Office of the Bureau Chief

**REPLY TO SANDLIN "RESPONSE"**

Garwood Broadcasting Company of Texas (hereinafter "Garwood") is the proponent of a rulemaking proposal filed on January 10, 2000 (RM-9848, MM Docket 99-331) which proposes, inter alia, the removal of channel 273 from Bay City and reallocation of channel 273 to Columbus, Texas. Although channel 273 has been allocated to Bay City for over ten years as a Class C1 channel, it has been occupied during that time by Sandlin Broadcasting Company (hereinafter "Sandlin") which uses it only as a lower grade class C2 channel. In proposing the reallocation of channel 273, Garwood also proposed replacing that channel at Bay City with channel 259C2, a channel fully equivalent to what is presently operated in Bay City and which has been operated as such during the past ten years. Sandlin, in numerous pleadings filed during the past two years in docket 99-331 has vigorously opposed the reallocation of channel 273 from Bay City to Columbus and Garwood has fully responded to all of the Sandlin complaints as filed.

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As part of its more recent pleadings filed in Docket 99-331, Sandlin added a new approach, that of including an "Informal Complaint" directed to the Enforcement Bureau but also included as part of its comments filed in Docket 99-331. The Informal Complaint again repeated arguments made in numerous pleadings already filed in Docket 99-331, but in view of the fact that Sandlin had now also directed its complaint to the Enforcement Bureau, Garwood, on June 24, 2002, filed a full "Reply" to Sandlin with the Enforcement Bureau.

True to form, Sandlin could not let it rest there but filed yet more comments with the Enforcement Bureau on July 8, 2002, in the form of its "Response to Reply to Informal Complaint", and Garwood is constrained to file here some final thoughts on that, as set forth below.

**I. Sandlin's Claim of 'Harassment' Has No Factual Foundation and is Wholly Without Merit.**

In its Informal Complaint, Sandlin complained that Garwood (or its principal, Roy E. Henderson) had essentially 'harassed' Sandlin about buying Sandlin's station. In response, Garwood had pointed out that Sandlin had owned its station for over ten years and that during that time Henderson had once expressed an interest in early 1990 and then, almost 9 years later had worked with a media broker who had spoken with Sandlin and had in fact gotten as far as a proposed Letter of Intent which Sandlin considered and ultimately rejected. Henderson pointed out that

these isolated contacts are normal in the business and could not in any case be construed as "harassment".

In response, Sandlin points to a visit by Henderson in October of 1998, accompanied by his wife and infant son, where Henderson also inquired if Sandlin had any interest in selling her station. In response, Sandlin points to a telephone record of 10-9-98, where she indicates she declined any interest in selling the station. This is interesting for several reasons. First of all, if Sandlin felt somehow 'threatened' or 'harassed' by the visit by Henderson and his wife and his infant son, she could have easily said so at the time, noting how 'intimidating' that trio could be, and saving herself a later phone call to decline her interest. Her phone call, according to Sandlin's own records was not even made until two days thereafter. If she wasn't considering the possibility of sale of the station, why did she wait two days to call and decline? Moreover, the indicated time of her call was only one minute or less, so it doesn't appear that any protracted discussion took place there.

It is utterly absurd to claim that this casual contact, which appeared to be as much, or more, social as business, was part of some scheme of 'harassment' by Henderson. What person, intent upon 'threatening' another person would take his wife and infant son with him for the meeting? Would they be considered the 'backup' or 'enforcers'? Sandlin says that Henderson proposed the visit, and mentioned his interest in possibly buying the station, but there is absolutely no indication that Sandlin then declined

to meet or indicated that she did not want to discuss a possible sale of the station at that time. With this course of conduct it is preposterous, and equally disingenuous, for Sandlin to now seriously proffer such vacuous arguments here.

As to the written offer already discussed in 1999, that indeed was made through a media broker named Dave Garland as previously indicated in Garwood's "Reply To Informal Complaint". To the extent that Sandlin refers to telephone calls and discussions prior to the broker seeking to formalize a possible sale, that is not at all inconsistent within the time frame consideration of ANY radio station sale. Furthermore, had Sandlin at any time simply said 'I do not wish to consider any sale, so do not waste our time', there would have been no further calls and most certainly Henderson would not have taken the next step of hiring a broker to formalize the interest and the offer.

In fact, the letter of Intent (included as Sandlin's Exhibit 3) states in the first line that it "the purpose of the letter is to express our mutual intent...(emphasis supplied)", and if the terms of the letter were not acceptable to both parties, then they would not sign and there would be no deal. In order to be effective, the Letter of Intent had to initially come from one of the parties to the other since they were the two that were to consider the transaction. Sandlin seeks to put some sinister 'spin' on this, but how else could it be done? It has to start with one of the parties saying "I think this is the deal and I agree and have signed it. If you agree please also sign it and we

will start working on a formal contract." The alternative is obvious: if the second party does NOT agree, they then do NOT sign it and there is no deal. There is nothing ominous or unusual in this procedure, and Sandlin's attempts to paint it that way are ludicrous.

The letter itself also confirms the work of the broker in trying to put the deal together and that Henderson agreed to pay him 4% of the purchase price as normal compensation for his efforts. In addition, the recollection of the broker was not that of Sandlin crying out 'how dare you send me such a letter of Intent' but one of Sandlin taking the letter, considering it with her Houston attorney, and then rejecting it simply because the price was less than she now thought it should be. This is all the more surprising since Henderson recalls that this very figure as set forth in the Letter of Intent had been originally suggested by Sandlin to Mr. Garland, the media broker.

But such things happen all the time and it is not 'harassment' by anyone, only a business deal that was pursued but did not happen. Again, it is safe to say that had Sandlin, at any time simply said 'I do not wish to consider any offer to buy my station', that would have been the end of it. There would have been no more phone calls and certainly no work by the broker or letter of Intent, all wasted time. Having not done so then, it is ridiculous for her to make such a claim now.

**II. Garwood's Rulemaking Proposal Represents the Best  
and Most Efficient Use of Channel 273.**

Finally, Sandlin refers to an Amendment filed by Garwood on January 14, 2002, where Garwood sought to simplify the rulemaking (now pending for two years) by modifying its proposal in Columbus by specifying allocation of channel 273A instead of 273C1. Sandlin suggests that this is somehow inconsistent with Garwood's arguments that Sandlin has wasted and warehoused channel 273 for ten years and that Garwood's proposal would now make full use of it. As Sandlin must know, there is no inconsistency. Garwood's rulemaking proposal suggests adding a first radio service in two communities but the reallocations are all interdependent. Without the reallocation of channel 273 to Columbus, whether as an "A" or a "C1", the proposal would not work. It is an essential part of the proposed upgrades.

Channel 273 is presently unavailable for such use since it is allocated as channel 273C1 at Bay City. Had it been actually used as a full C1 channel there by Sandlin, Garwood would not have filed its rulemaking proposal since it could not find a full C1 replacement channel for Bay City. But, the fact is that while Sandlin is not, and has not, for ten years ever USED channel 273 as a full C1 station, it still is listed in the allocation table at that full power and, as such, alternate uses in the public interest have been simply blocked and wasted.

Recognizing the reality of Sandlin's warehousing and lack of use of the full C1 facility, Garwood proposed its reallocation to

Columbus, as part of the plan to initiate two new first radio services, and its replacement at Bay City with a channel equivalent to what has been in actual use there, for ten years, 1/ through allocation of replacement channel 259C2. Sandlin has been operating at 273C2 and Garwood has proposed it operate as 259C2. Under that proposal, there is no service lost in Bay City and new first service is provided to two new communities.

In sum, Garwood has then proposed a full USE of channel 273 by its reallocation as part of a general community upgrade of FM facilities. Without use of that channel however, none of the other allocations could work. It is this essential full use of channel 273 that is the subject here. Under Garwood's proposal, two new cities (Garwood and Sheridan) would receive a first radio service. If Garwood's proposal were not adopted, then channel 273 would continue as it is in Bay City, where it has wasted away for ten years, as a vacant and unused C1 allocation. That is the waste which we face here, and that is the waste that would be finally ended with adoption of the Garwood proposal.

### III. Conclusion

Garwood's proposal remains pending before the Policy and Rules Division of the Mass Media Bureau where Sandlin has repeated its attacks upon Garwood ad nauseam in endless pleadings

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1/ Notwithstanding the full "C1" allocation, Sandlin requested that her station be licensed as only a lower powered "C2" station operating on that full "C1" allocation. The Commission agreed to do so and the station has been subsequently licensed and renewed over the past ten years as a "C2" station while operating on a full "C1" allocation.

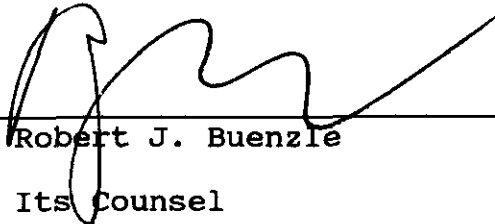
already on file. We are hopeful that the Media Bureau will act upon the Garwood proposal soon, one way or the other. Garwood has tried to be responsive to Sandlin's complaints both at the Media Bureau and here and we do not know what else there could possibly be for anyone to say on this. Sandlin has had full rein to make its charges and Garwood has replied to them. We would hope that Sandlin could leave it at that, and allow the Commission to make its decision upon the existing record. Hope springs eternal.

Wherefore, Garwood respectfully submits that the Sandlin complaint is without merit and should be dismissed.

Respectfully submitted,

GARWOOD BROADCASTING COMPANY OF TEXAS

by

  
Robert J. Buenzle

Its Counsel

Law Offices  
Robert J. Buenzle  
11710 Plaza America Drive \*  
Suite 2000  
Reston, Virginia 20190  
(703) 430-6751

August 22, 2002

\* It is requested that all parties take note of the new address and phone number of Counsel for Garwood and Henderson.



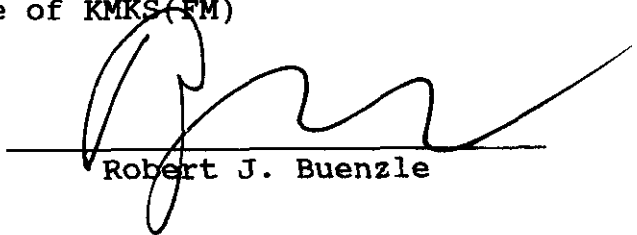
CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing Reply To Sandlin Response have been served by United States mail, postage prepaid this 22nd day of August, 2002, upon the following:

\*John A. Karousos, Esq.  
Assistant Chief, Audio Division  
Office of Broadcast License Policy  
Media Bureau  
Federal Communications Commission  
Portals II, Room 3-A266  
445 12th Street SW  
Washington, D.C. 20554

David H. Solomon, Chief  
Enforcement Bureau  
Office of the Bureau Chief  
Federal Communications Commission  
Portals II, Room  
445 12th Street SW  
Washington, D.C. 20554

Sandlin Broadcasting Co., Inc.  
P.O. Box 789  
Bay City, Texas 77404  
Licensee of KMKS(FM)

  
Robert J. Buenzle

\* Also Sent By Fax